THE HONOURABLE SRI JUSTICE K.C.BHANU

WEDNESDAY, 3rd AUGUST, 2005

WRIT PETITION No.20503 of 2002

Between:

G. Ameer …Petitioner

AND

1.The Depot Manager, APSRTC,

Dharmavaram Depot, Anantapur District

and another …Respondents

THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.20503 of 2002

ORDER:

The writ petition is filed seeking a direction, in the nature of writ of certiorari, to quash the award dated 18.01.2002 in I.D.No.87 of 1999 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur, and consequently, to direct respondent No.1

to grant continuity of service, back wages and all other attendant benefits.

2. The case of the petitioner is that he joined the services of the respondents'-Corporation as Conductor in 1978. He was charged on 09-01-1998 for certain cash and ticket irregularities in discharging his duties. Later, he submitted his explanation. But the respondents'-corporation without considering his explanation ordered enquiry. Basing on the report of the enquiry Officer, the respondents'-Corporation removed the petitioner from service. The petitioner preferred an appeal to the appellate authority, but the same was rejected. Thereafter, the petitioner filed a review petition before the Regional Manager and the same was also was rejected. Aggrieved by the same, the writ petitioner raised an Industrial Dispute in I.D.No.87 of 1999 before the Industrial Tribunal-cum-Labour Court, Anantapur, wherein the order of the removal from service was set aside and the respondents'-corporation was directed to issue fresh appointment to the writ petitioner without any monetary or service benefits for his past service. The respondents'-corporation was also directed to deferred two annual increments with cumulative effect, after issuing fresh appointment to the petitioner. Questioning the said award, the petitioner preferred the present petition.

3. The learned Counsel appearing for the petitioner contended that the petitioner was appointed in the year 1978 and he continued in the respondents'-corporation till 1998, and subsequently, on certain irregularities committed by him in re-issuing the tickets, he was removed from service. He further contended that the petitioner is going to be retired in the month of June, 2006, and therefore, the continuity of service may be granted to the writ petitioner for the purpose of pensionary benefits.

4. On the other hand, the learned Standing Counsel appearing for the respondents'-corporation contended that the charges are very grave in nature, and the Labour Court on sympathy, ordered reinstatement as a fresh appointment and hence, the order under challenge does not suffer from any infirmities.

5. The charge leveled against the petitioner is that he has reissued the two tickets to two passengers, who were traveling from Lingala to Parnapalli and he failed to account for in the statistical return. When the petitioner denied the charges, a regular departmental enquiry was conducted. After conducting enquiry, he was removed from service, as he found guilty of the charges leveled against him. The appeal and the review have been dismissed. Thereafter, the petitioner raised an Industrial

Dispute. The categorical finding of the charges against the petitioner has been established before the Labour Court. It is not disputed that the enquiry was conducted after affording opportunity to the petitioner. It is not a case, where the charges are not based upon any evidence at all.

6. The only question to be answered in this writ petition is whether the continuity of service can be ordered since the charges leveled against the petitioner are grave in nature. By reissuing the tickets for Rs.10/-, the petitioner gained pecuniary advantages. Therefore, it is not the question of misappropriation and mis-utilization of the amount. But the conduct of the petitioner in doing so is relevant to the charges leveled against him. From the charges, he failed to account for Rs.10/- denomination and also reissued the two tickets. The acts of the writ petitioner show his conduct. In that view of the matter, it can be said that he intentionally committed such irregularity and caused loss to the corporation. Therefore, the proper punishment has been awarded.

7. It is not in dispute that the petitioner is going to be retired in June, 2006. On perusal of the award impugned, it is apparent that the Tribunal recorded cogent reasons for not awarding all other benefits. Further it is apparent that on eight occasions, the petitioner was censured and on three occasions, the annual increments were deferred. Though the petitioner committed serious financial irregularity, the Labour Court on sympathy, ordered reinstatement as a fresh candidate. Therefore, I am of the view that the award impugned need not require any interference by this Court.

8. Accordingly, the Writ Petition is dismissed. No order as to costs.

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K.C.BHANU, J.

DATED: 03rd August, 2005

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